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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/164,427	09/30/1998	AMIR S. AFSHARY	042390.P5980	6655

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EXAMINER

HUYNH, SON P

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 01/02/2004

13

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/164,427

Applicant(s)

AFSHARY ET AL.

Examiner

Son P Huynh

Art Unit

2611

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 October 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 03 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-5,7,9-12 and 25-33.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

  
ANDREW FAILE  
SUPERVISORY PATENT EXAMINER

Applicant argues that McArthur fails to teach a "carrier modulated digital signal" because the video signal is output from the PC in NTSC format, which is a color analog TV standard and the composite video generated by PC is an analog format signal. In addition, Applicant argues McArthur fails to teach, "carrier modulated digital signal having a signal operating frequency that occupies the second portion of the operating frequency spectrum of the coaxial cable." Applicant further argues there is no suggestion or motivation to combine McArthur with Terry as proposed by the Examiner.

In response, McArthur discloses FSK or QAM encoding scheme is utilized for the baseband digital televisions in the network can directly tune in video in NTSC format originally from a PC or remodulated video originating from any other device in the network (col. 4, lines 40-55). McArthur also discloses frequency band from 50 to 750 MHz is used for standard cable television signal; frequency band from 750 to 800 MHz is used for remodulated, local video originating from PCs or other devices in the network. As a result, remodulated video is carrier modulated digital signal, and carrier modulated digital signal having a signal operating frequency that occupies the second portion (750 to 800 MHz) of the operating frequency spectrum of the coaxial cable.

Applicant further argues the conventional cable TV, as defined in Applicant's specification, ranges from 0 to 950 MHz. McArthur discloses frequency range for local channels is 750 to 800 MHz. Therefore, McArthur fails to disclose the second portion operates "at a frequency greater than a signal cut off frequency defined for conventional coaxial cable services."

In response, it is noted that "0-950 MHz where conventional cable TV, digital cable TV and cable modem service are offered" is not recite in independent claims. Independent claims simply recite "frequency defined for conventional coaxial cable services." Therefore, as discussed above, the "cut off frequency defined for conventional coaxial cable services", as claimed, read on the cut off frequency for standard cable TV (750 MHz) and the "second portion" is operated at frequency band from 750 to 800 MHz, which is greater than cut off frequency for standard cable TV.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, McArthur discloses frequency band from 750 to 800 MHz is used for local channels as discussed above. McArthur further discloses a larger number of local channels can be implemented if desire (col. 4, lines 65-67). However, McArthur does not specifically disclose the modulated digital signal operating frequency is between 950 and 2000 MHz and has a bandwidth of at least 5 MHz. Terry discloses control signals and possibly other data are carried in a QPSK channel providing an upstream bit rate of 300 Mb/s in a frequency range from 1150 to 1350 MHz (col. 5, lines 55-60) and has a bandwidth of at least 5 MHz (figure 2 or figure 3). Therefore, it would have been obvious to modify McArthur to use the teaching as taught by Terry in order to increase bandwidth thereby allowing more data transmitted in cable.

Furthermore, Applicant argues the combination of Williams and McArthur does not teach or suggest every limitation of independent claim since McArthur does not teach or suggest the limitation of "the second portion operating at a frequency greater than a signal cut off frequency defined for conventional coaxial cable services." Examiner respectfully disagrees and indicates McArthur teaches "the second portion operating at a frequency greater than a signal cut off frequency defined for conventional coaxial cable services." as discussed above.

For the reason given, the rejections are maintained as discussed in Paper No. 11 mailed on August 4, 2003.